

**MINUTES
FOR THE REGULAR MEETING
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
Docket No. 5475**

1. Opening of Meeting:

The Appeals Board convened at 10:30, November 14, 2006 in Sacramento, with Chair Ann M. Richardson presiding.

2. Roll Call: Members

Present

Absent

Ann Richardson, Chair

X

Virginia Strom-Martin

X

Jack Cox

X (Via Phone)

Don Novey

X

Terri Carbaugh

X

3. Approval of the Minutes:

The October 10, 2006 minutes were approved by all members.

4. Chair's Report:

Chair Richardson noted that two of our the AO judges, Julia Newcomb and Pat Poyner, will be honored for 25 years of service to the state.

5. Board Member Reports:

Board Member Novey reported that CCPOA gave three hundred and twelve thousand dollars to the Veterans Family relief fund and to soldiers coming back from Iraq for the holidays. They also gave one hundred thousand dollars to the Semper Fi fund. He commented that in the very negative world of politics, some good does come and he is very excited about things like that.

Board Member Novey also reported that this is probably his next to last Board Meeting.

6. Chief Administrative Law Judge/Executive Director's Report:

Executive Director/Chief Administrative Law Judge Jay Arcellana reported that the October revise from Department of Finance indicates CUIAB's projected workload is expected to drop by approximately 13,000 cases, which would result in a budget reduction of about 2 million dollars. On top of that news, we learned last week that the Department of Finance did not grant CUIAB's request for state funding of the cost of living increases, a 1.7 million dollar cost item that will have to be absorbed within the CUIAB's existing budget. We are hoping that our request will be

considered at the cabinet level. Between those two items, the CUIAB may have to deal with a loss of funding totaling 3.7 million dollars.

The occurrence of a workload drop is a contingency for which the agency must always be prepared, and we have done so. However, it is always a difficult balancing act to make sure we stay within budget, given the fluctuations that can occur, while at the same time ensure that we meet federal timeliness standards and avoid layoffs. There are usually just two avenues for relief: one is to reduce cost outlays, and the other is to increase income. Small budget reductions can be dealt with through lease reductions and hiring restrictions, but significant budget reductions usually require a case load increase. The question is going to be how much and for how long.

7. Branch Reports:

Executive Director/Chief Administrative Law Judge Jay Arcellana reported that workload remained steady for the month of September, and were close to our yearly average. Most offices are now current with their registrations.

Chief Arcellana reported that the Chair, Chief Counsel Ralph Hilton, PALJ Tim McArdle, and he met with Agency Counsel Bob Dresser to discuss budget, workload and staffing issues. A quarterly meeting was also held between EDD and PALJ Hugh Harrison regarding the elimination of our postage privileges by the federal government. One positive note is that California is among the most cost efficient of the states, so our proportionate share of the reduction should be less than that of other states.

Chief Arcellana also reported that quarterly meetings were also held this past month for the clerical supervisors, LSS Is and IIs. In addition, the digital roll out has been completed in San Diego and San Jose, and went very well.

The Presiding Administrative Law Judges exam was conducted this past week, with a total of 24 candidates. The exams were conducted in Sacramento, Inglewood, Pasadena, Orange County, San Francisco and Oakland.

Chief Arcellana reported that he met with Orange County office staff this past week, where they were briefed on the workload and budget problems; they were very supportive of the need for adjustments that will probably be needed to deal with those problems. Also notable is that Orange County PALJ Hazel Cash celebrated her 25th year of state service.

Chief Arcellana reported that we received an accommodation regarding our quality achievements from the California Association of Hospitals and Health Care Services, a rare honor bestowed by that organization.

Lastly, Chief Arcellana commented on the CUIAB strategic plan in the Board Members' packets. The strategic plan is the responsibility of Deputy Director Mary

Walton-Simons and the P&PM staff. It was initially adopted by the Board in November of 2003, and is a continuing effort by the agency. There are five principal goals set forth in the plan, relating to service to the public, skill development for agency staff, workplace safety, IT systems, and planning for the future.

One of the more interesting objectives is cultural diversity, since the agency serves many different nationalities. Board Member Strom-Martin commented that the part about cultural diversity really sparked her interest because we have such a diverse workforce, and the way some people handle situations in the work force are a direct reflection of their cultural background.

Chair Richardson agreed with those statements, and also commented with regard to diversity that continuous training for judges and other staff is important. Chief Arcellana concurred, stating one thing that he wanted the agency to recognize as we go through some of these budget issues is that we cannot forget about training, which is the first thing other agencies cut when confronted with budget problems, a big mistake in the long run.

b. Deputy Chief ALJ, Appellate Operations Steve Angelides reported on the appellate workload: October registrations were at 1,082, 83% of calendar year average; dispositions were at 1,505, 110% of calendar year average; the balance of open cases was at 1,774, the lowest balance since November 2002. The two latter workload numbers are attributable to continued use of retirees and the completion of several special projects. The average UI case age fell slightly from 40 to 39 days, and will probably fall further in November as AO continues to work through the older cases. The special projects that were completed include the proposed precedent decision on jurisdiction and notice, the proposed decision in the JB Start case, and the revised Board paragraphs, leaving just the AO procedure manual project. Given these numbers and project completions, the use of retired annuitant ALJs will be discontinued next year.

CTU production in October continued to remain stable at around 7,500 pages, and CTU has been able to loan typists to AO to help cover for vacancies. This shows us that the years-long workload crisis in CTU has clearly now been resolved, thanks to the hard work of all staff involved.

Deputy Chief ALJ Angelides continues to spend a couple of days on the road every other week to finish the digital recording rollout, which will be completed with the Oakland Office at the end of the month.

Finally, Appellate Operations will conduct its bi-monthly ALJ meeting on November 30, with training on temporary service and leasing employers under CUI section 606.5 by ALJ Julia Newcomb, and the 25 year state service anniversary celebrations of ALJ's Julia Newcomb and Pat Poyner.

c. Deputy Director, Administrative Services Branch Pam Boston reported that IT completed the testing of the hot site (back up servers) in Orange County. The test

was successful, so we are prepared for an emergency should we lose our servers in Sacramento.

Deputy Director Boston has recently issued a new travel handbook, and it can be accessed on the Bench.

Sorely-needed remodeling of the San Francisco Office of Appeals will begin on December 1, 2006, with completion expected sometime in January. The remodel primarily involves painting and the installation of new carpet.

d. Deputy Director, Planning and Program Management Branch Mary Walton-Simons reported the following significant activities by her Branch:

- PALJ/LSS II reports training was provided to the PALJs and Legal Support Supervisors for the San Diego, Inland, and Oxnard offices.
- Digital Software training was provided for all staff of the Fresno, San Jose, and San Diego offices.
- An updated California Budget Reconciliation and Accounting Report for the 2006 Triennial Conference was provided to the NAUIAB Board of Governors, showing that there were 147 conference attendees, 50 additional paid guests in attendance at the evening functions, leaving NAUIAB with a net profit of \$5,000.

Chief Arcellana commented that showing a profit is quite an accomplishment for a host state, as the event normally ends up in the red. In response to Member Carbaugh's inquiry, Chief Arcellana advised that any profit goes back to NAUIAB to apply to the next year's conference and training activities.

Chair Richardson commended CUIAB for running such a successful, efficient and cost-effective conference.

8. Chief Counsel's Report:

Chief Counsel Ralph Hilton reported, on the litigation front, that there were three new cases filed last month, and two cases closed, one of which affirmed the Board, and the other remanded back to the Board for consideration of two additional medical reports. A discussion among the Board members then followed about the importance of having all of the medical records in DI cases available and reviewed at the time a case is decided.

Chief Counsel Hilton further reported that CASE has withdrawn the unfair practice charge it had filed against CUIAB with respect to the five-week caseload increase placed into effect at the end of the last fiscal year.

9. Unfinished & New Business:

Chief Counsel Ralph Hilton introduced case number AO-114002, to be considered by the Board for designation as a precedent. The case deals with the issues of jurisdiction and notice. The decision itself has already been reviewed and

approved by all Board Members. The Board members voted unanimously to designate AO-114002 as a precedent decision.

Chief Counsel Hilton introduced AO-97761 and AO-136707 for consideration as en banc decisions. Both cases had been reviewed and decided by all Board Members, and pursuant to CUIAB regulations must be adopted by Board vote. The Board voted unanimously to adopt the decisions in AO-97761 and AO-136707 en banc.

10. Public Comment:

Chief Counsel Ralph Hilton read a public comment that was offered in written form to the Board. The letter is from a Mr. Swanson who had an appeal that was heard on August 15th. At the time of his letter, Mr. Swanson had not yet received his decision. The decision was subsequently issued on October 10, 2006.

Mr. Swanson's primary concern and complaint was the amount of time it took to obtain a decision. Presiding Administrative Law Judge Julie Krebs has reviewed the case and Chief Counsel Ralph Hilton introduced her to address Mr. Swanson's letter.

PALJ Julie Krebs stated that it did take longer than usual to issue Mr. Swanson's decision. The case involved a number of witnesses and a very lengthy hearing, approximately 3.5 hours. The ALJ did take extra time to review the evidence, but in the end agreed that the decision should have been issued earlier, and apologized for the delay.

Chief Counsel Hilton was asked to convey the Board's apology to Mr. Swanson.

11. Closed Session:

The regularly scheduled Board meeting adjourned and the Board went into closed session. No votes were reported from closed session.